



Memorandum

TO: HONORABLE MAYOR AND
CITY COUNCIL

FROM: Councilmember Ash Kalra

SUBJECT: WAGE THEFT POLICY

DATE: June 5, 2014

Approved

Ash Kalra

Date

6/5/14

RECOMMENDATION

Refer the following item to an upcoming Council Agenda:

Direct City Manager to:

1. Establish a Wage Theft Task Force to meet for six months to develop recommendations for an effective ordinance to combat wage theft. The Task Force should consist of representatives from city departments that issues business licenses, collect business taxes, the City Attorney's office, members from the business community, community-based organizations, workers, and labor unions.
2. Analyze and report back to the Wage Theft Task Force on the feasibility of possible wage theft enforcement mechanisms including but not limited to:
 - a. Implementing a system for flagging those businesses that are "wage theft violators" based on noncompliance with state and federal wage and hour law (i.e. judgment recorded in Superior Court by the Labor Commission) in the last 3 years.
 - b. Revising all City of San Jose contracts to permit revocation of contracts with wage theft violators and require all businesses that contract with the City to disclose all wage theft judgments or findings by a government body on an ongoing basis during the duration of the contract.
 - c. Authorizing departments that issue business licenses or city issued permits to suspend those licenses issued to wage theft violators.
 - d. Tracking all interactions that a business has with any City department using a single customer identification number (i.e. business license). The City should verify that the business entity listed on licenses and permits is a legal entity and that the same legal entity is listed on all interactions with the City.

- e. Directing each City department to identify points of interaction with businesses or workers (especially low wage workers) within its routine business and provide “know your rights” information that pertains to wage theft.
 - f. Screening all businesses receiving a City benefit or recognition to ensure that wage theft violators are ineligible.
 - g. Ensuring, to the extent permissible by law, that tax credits or tax exclusions are not granted to those businesses that are wage theft violators.
 - h. Implementing wage theft training and education programs with police officers to enable them to appropriately respond to workplace disputes.
 - i. Assessing what resources would be needed in order for the City Attorney to affirmatively pursue wage theft cases.
3. Upon conclusion of the Taskforce’s work, report back to the Rules Committee on the Taskforce recommendation for a Wage Theft Ordinance.

BACKGROUND

Wage theft is the crime of stealing earned wages from workers. It occurs when a worker is paid less than minimum wage, is not paid overtime, is paid only in tips, or works off the clock. Wage theft is a national epidemic – affecting workers in industries that span the economy. According to a national study, the average low-wage worker loses 15% of her wages to wage theft each year.

San Jose voters took a significant step towards addressing the ever growing concern of income equality by increasing the city's minimum wage in 2012. However, an increased minimum wage is only as effective if there is a reasonable sense of confidence that employers are abiding by it. Despite Silicon Valley’s economic success, wage theft is rampant in Santa Clara County. Each month, the Office of the California Labor Commissioner in San Jose handles approximately 300 enforcement claims from workers in Santa Clara County.

From 2012-2013, the almost 2,000 workers who filed claims with this office were awarded \$8.4 million in owed wages. This is an average of almost \$5,000 per worker – which amounts to approximately a quarter of the income they earn in a year. Workers are often unable to collect their owed wages. Of the \$8.4 million awarded, workers have been able to collect only \$2.8 million or 33 percent of the total. Additionally, Workers face challenges when they come forward to complain about unlawful working conditions. Nationally, almost half of workers surveyed experienced some form of illegal retaliation when they complained about unlawful working conditions.